

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN THE MATTER OF THREE SEALED
SEARCH WARRANTS

CASE NO. H 16-409 M

Consolidated with:

CASE NO. H 16-555 M, and

CASE NO. H 16-556 M

UNITED STATES' RESPONSE TO ORDER TO SHOW CAUSE

The United States of America, by and through its undersigned attorneys, respectfully submits the following response to the Court's Order to Show Cause issued June 21, 2016 (ECF No. 23), which directed the United States to file a brief explaining why it filed docket numbers 10, 12, 16, and 19 under seal.

The United States filed docket numbers 10, 12, 16, and 19 under seal for several reasons: (1) because they were filed in response to the Movant's Motion to Unseal (ECF No. 6), which was filed under seal; (2) the Court's Order for Expedited Response (ECF No. 8), which ordered the United States to respond to Movant's motion, was filed under seal; (3) they each relate to an ongoing criminal investigation of the allegations relayed in the sealed affidavits; (4) they refer to potential additional criminal conduct beyond that initially described in the sealed warrant affidavits; and (5) each document contains "return information," which 26 U.S.C. § 6103(a) requires to be kept "confidential."

Indeed, the unauthorized disclosure of "returns" and "return information" is a very serious matter. 26 U.S.C. § 7431 creates a civil cause of action against the United States if "any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision

of section 6103.” Furthermore, 26 U.S.C. § 7213 makes it a felony punishable by a term of imprisonment up to 5 years for “any officer or employee of the United States . . . willfully to disclose to any person, except as authorized in this title, any return or return information.” However, 26 U.S.C. § 6103(h)(4)(A) authorizes the disclosure of return information “in a Federal or State judicial or administrative proceeding pertaining to tax administration,” “if the taxpayer is a party to the proceeding.”

Although Movant initially his motions under seal, the United States has become aware that these documents have since been made publicly available. Accordingly, after a review of docket numbers 10, 12, 16, and 19, the United States has determined that it is possible to redact the documents so that they may be filed publicly without disclosing return information. The United States provided the redacted copies of the documents to the attorney for Movant, who indicated that they have no objections to the United States filing the redacted versions of the documents publicly. Accordingly, the redacted versions of docket numbers 10, 12, 16, and 19 have been filed as attachments to this Response.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, which was filed electronically, has been delivered automatically to the attorney for Movant by the ECF system.

/s/ Justin R. Martin
Justin R. Martin
Assistant United States Attorney